



HM Revenue  
& Customs

## **OTHER INTEREST (OI) RETURNS 2016/17**

**Guidance Notes for returns of Other  
Interest under Schedule 23 to  
Finance Act 2011 and the Data-  
gathering Powers (Relevant Data)  
Regulations 2012 (SI 2012/847) as  
amended.**

For enquiries about these notes see the [gov.uk](http://gov.uk) website (link details in para 3.5)

## Guidance note for OI return 2016/17

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### 1. Glossary

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- AIF** Authorised Investments Funds – financial products, including AUTs, OEICs and any others covered by the Authorised Investment Funds (Tax) Regulations 2006 (SI 2006/964), as amended.
- AUT** Authorised Unit Trust – a financial product for which an R105(AUT) form is sometimes used to show that the beneficial recipient of the interest is eligible to receive interest gross (i.e. without deduction of tax) (see paragraph 4.9).
- OEIC** Open Ended Investment Company – a financial product for which an R105(OEIC) form is sometimes used to show that the beneficial recipient of the interest is eligible to receive interest gross (i.e. without deduction of tax) (see paragraph 4.9).
- BBSI return** Bank, Building Society Interest return. A return of interest paid in the course of the normal business of a bank, building society or other deposit taker. The name changed in 2014 from Type 17 return. Such returns in earlier years were required under section 17 of the TMA 1970. (see also OI below).
- CRS** Common Reporting Standard. This is the short name of “The agreement to the automatic exchange of information to a common reporting standard” an OECD initiative. In the EU it is taking over from EU Savings Directive reporting but it also covers a lot of other countries and more data than the EU Savings Directive.
- Calendar years** Year from 1 January 2016 to 31 December 2016 as distinct from a tax year which runs from 6th April 2016 to 5th April 2017.
- Data-gathering regs** These are the Data-Gathering (Relevant Data) Regulations 2012. They contain the definitions of what are the relevant data that HMRC can require data-holders to provide in a return. Regulations 5-10 inclusive define the relevant data for OI returns.
- Data-holder** These are persons who can be required to provide relevant data by a notice from HMRC. Schedule 23 defines each data-holder group separately in Schedule 23 to FA 2011. Data-holders for OI returns come under paragraph 12 of that schedule.
- EUSD** European Union Savings Directive – EU agreement (2003/48/EC) which was turned into UK law as the Reporting of Savings Income Information Regulations 2003 (SI 2003/3297). The last report required was for the tax year to 5 April 2016.
- FR** Fully Reportable – countries whose residents you must include in your OI return when they receive interest (see paragraph 4.2).

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- HMRC Her Majesty's Revenue and Customs. When these notes were published on the HMRC website HMRC was referred to as "us". Now on gov.uk the notes speak of HMRC in the third person for clarity.
- NINOs National Insurance Numbers
- OI return Other Interest return. The return this guidance note is about. A return of interest paid but not in the course of the normal business of a bank, building society or other deposit taker. The name changed in 2014 from Type 18 return. Such returns in earlier years were required under section 18 of the TMA 1970. (see also BBSI above).
- PIBS Permanent Interest Bearing Shares – you may report interest on these using the BBSI rules rather than the OI ones (see paragraph 3.1).
- PT Prescribed Territories. The EUSD version of FR.
- R85 An HMRC form signed by an individual who does not ordinarily pay tax in the UK. They are paid gross interest (see paragraph 5.3).
- R105 An HMRC form in which a person declares that they are not resident in the UK (see AIF above and paragraph 4.9).
- Relevant data The information that a data-holder can be required to provide to HMRC. For each group of data-holders in schedule 23 there is a separate definition of relevant data in the Data-gathering Powers (Relevant Data) Regulations 2012.
- SIR Savings Income Reporting – This was another name for the EUSD return that came from the name of the UK regulations, the Reporting of Savings Income Information Regulations 2003 (SI 2003/3297) (see section 7 of this note).
- Schedule 23 This is one of the schedules to the Finance Act 2011. It lays down the rules for HMRCs use of the data-gathering powers and the definitions of the various types of data-holder who can be required to provide relevant data.
- TDSI Tax deduction at source for interest.
- TMA Taxes Management Act 1970 – the primary law covering the main themes and powers for Income Tax and Corporation Tax.

**Note:** There are phrases such as "you need not report here" or "do not report here" in several places in these notes. In each place, it means, "You need not report on an OI return". Information you do not need to report on an OI return you **might** need to report on another return, e.g. a BBSI, ESD or ISA return. The phrase does **not** mean that just because the information is not reportable on your OI return you do not need to report it to HMRC at all.

### LATEST INFORMATION

**We try and provide you with the most up-to-date information. It is possible, however, that HMRC may need to make changes at short notice or add further help to the gov.uk website (see link in paragraph 3.5) after this guidance note has been published. Where HMRC do make changes after publication they will bring them to your attention in the notice they send you to tell you that you must make a return.**

### 2. Other Interest Return: Guidance Notes for 2016/17

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#### 2.1 Reporting for previous years and other types of reports

These guidance notes only relate to making OI returns for the year 2016/17. Guidance on reporting for 2015/16 is also on the gov.uk website (see paragraph 3.5).

#### 2.2 Law regarding returns of interest paid

The primary law under which you must make a return is Schedule 23 to the Finance Act 2011 (hereafter "sch 23"). This lays down various groups of data-holders who can be required to make a return of relevant data to HMRC. It also allows the Treasury to make regulations to lay out what is relevant data for each type of data-holder. These are the Data-Gathering (Relevant Data) Regulations 2012 (hereafter "data-gathering regs"). Paragraph 12 of sch 23 defines who is a data-holder for OI returns. The regulations covering what relevant data HMRC can require are regs 5 to 10 inclusive. The definitions of Alternative Financial returns (such as accounts compatible with Sharia law) are also in paragraph 12 of sch 23.

These notes are HMRC's view of what the law means. They set out how they apply the rules that are in sch 23 and the data-gathering regs. They are to help those who get notices to send in OI returns that are accurate and on time. Where these notes talk about regulations or regs, such as "regs 5 to 10" in the above paragraph, the regulations referred to are the Data-gathering Powers (Relevant Data) Regulations 2012 (SI 2012/847) as amended from time to time.

#### 2.3 National Insurance numbers (NINos)

Regulations 8 and 9 give HMRC power to ask for NINos (National Insurance Numbers) for accounts opened on or after 6 April 2013. This power has not yet been invoked so HMRC are not going to require you to report NINos in your tax year 2016/17 OI return.

#### 2.4 Enquiries and Return Flowchart

If you have any enquiries please see the contact information on the gov.uk website (see paragraph 3.5). The Appendix 1 Flowchart shows when a return is required and what to report in it.

#### 2.5 Background

People receive interest on their investments and savings. They may declare such interest on their tax returns and pay any tax due. Sch 23 allows HMRC to require returns of interest paid or credited so that they can compare it with that declared on tax returns. HMRC exchange the information they receive on individuals in some countries outside the UK - the Fully Reportable (FR) countries - with the tax authorities in those countries. Those tax authorities send details of UK resident people who receive interest from accounts held in their country. HMRC make such exchanges using secure methods and procedures. The numbers of such FR countries is reducing now with the introduction of the CRS system for reporting between countries (see paragraph 2.6)

HMRC will tell you when to make a return by sending you a notice. These can go to any person who pays interest to, or receives interest on behalf of, reportable individuals (see paragraph 4.2). HMRC generally send out the main batch of notices at the end of February each year (see paragraph 3.3). The returns are normally required back with HMRC by the end of June after the tax year (see paragraph 3.4). You can appeal against a notice if you feel it is unduly onerous for you to have to provide the information (see paragraph 3.8). There is a penalty for failing to make a return on time or making a carelessly or deliberately inaccurate one (see paragraph 3.9).

The notice requires you to provide information about interest you have paid or received and the individuals to whom you have paid it, or on whose behalf you have received it, over the tax year specified, e.g. 6 April 2014 - 5 April 2015. You must report the information in one of the formats specified in the notice. You have an obligation under the Data Protection Act 1998 (see paragraph 8.1) to protect the information while it is on the way to HMRC.

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### 2.6 Fully Reportable Countries and changes to the list.

There are several changes coming to the fully reportable countries list over the years 2015-2017 to accommodate the changes as countries join take up CRS reporting. The countries reported in OI will shrink over this period until only the UK residents are left. In each case the switch over will be complicated by the different reporting years of the CRS and OI returns. Returns covering the switch over date may include data up to the end of the tax year rather than to the exact switch over date if your system only reports in tax years. Thereafter you must report the countries on CRS to their correct time periods.

The Fully reportable countries list over the next few years will be:

For the tax year to ...	... 6 April 2015	... 6 April 2016	... 6 Apr 2017	... 6 Apr 2018
Report interest paid to individuals resident in the following Fully Reportable countries on your OI return.	<i>Australia,</i> <i>Canada,</i> <i>Japan,</i> <i>New Zealand,</i> <i>Norway,</i> <i>South Korea,</i> <i>USA;</i> and <i>Anguilla,</i> <i>Bermuda,</i> <i>Cayman Islands,</i> <i>Turks &amp; Caicos Islands.</i>	<i>Australia,</i> <i>Canada,</i> <i>Japan,</i> <i>New Zealand,</i> <i>Norway,</i> <i>South Korea.</i>	<i>Australia,</i> <i>Japan,</i> <i>New Zealand.</i>	none

### 3. Returns

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#### 3.1 Who must make a return?

Everyone who receives a OI notice must make a OI return, regardless of the nature of their business. This includes UK branches of non-resident businesses. In these cases, only the interest paid or received by the UK branch need be put on the return, not any interest paid or received by parts of the business that are not resident in the UK.

This may mean that more than one person, for example, if a broker and their “clearer” both receive notices, could report one interest payment. If you receive a notice and know that someone else will be reporting entirely the same information, please contact CNI at the address in paragraph 3.5. You do not have to make enquiries to find out if anyone may be reporting the same interest payments as you.

The notice will include instructions about where to send your completed return.

If you get a OI notice you may also get a notice to make a BBSI return. Do not report the same individual interest payments on both types of return. In the following cases you can report information on the BBSI return (using the BBSI format and guidance) rather than on the OI one:

- **Building societies** reporting interest on Permanent Interest Bearing Shares (PIBS).
- **Local Authorities** reporting interest paid or credited to individuals.
- **National Savings & Investments** should strictly report interest paid on some of their products on their OI return but, if they wish, they can report the information on their BBSI return.

The BBSI return format and guidance note are on the gov.uk website (see paragraph 3.5).

#### 3.2 Delegating the responsibility to make a return

If you receive a notice to make a return, you can arrange for a third party to complete it on your behalf. **You**, however, remain responsible that the return is accurate and gets to HMRC on time.

Strictly, HMRC should serve a notice on the trustees of each AIF. To make things simpler, however, they issue notices to fund managers asking for information from all the AIFs under their management. The manager who receives the notice then becomes legally responsible for making the return.

#### 3.3 When do HMRC issue notices?

They normally issue notices in the February before the end of the tax year that they relate to. For example, HMRC sent out the notices covering the tax year from 6 April 2012 to 5 April 2013 at the end of February 2013. They can, however, issue notices at any time up to four years after the end of the tax year. If you think that you may still receive a notice to make a OI return you should retain your records for four years from the end of the tax year.

#### 3.4 What is the time limit for making returns?

Each return will normally cover a whole tax year. The last date for getting your return to HMRC will be in the notice. It is normally the later of **30 June** following the end of the tax year and 4 months after the date HMRC issued the notice.

For example, HMRC issued notices in February 2014 for the tax year 2013/14. They specified that returns be in by 30 June 2014. If HMRC had issued a notice on 31 March 2014, it would normally say, “Send in your return by 31 July 2011.” You may send in your return before it is due.

#### 3.5 Link to the gov.uk website

Advice on submission of returns, guidance notes, contact information and examples of the forms you will need to make a prompt and timely return are on the gov.uk website at:

<https://www.gov.uk/government/publications/type-17-and-18-bank-building-society-interest-and-other-interest-returns-of-interest-and-eusd/bank-and-building-society-bbsi-european-union-savings-directive-eusd-and-other-oi-returns-of-interest>

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### 3.6 Sending your return to HMRC

The notice to make a OI return will include instructions on where to send your completed return. You can send your returns by Secure Electronic Transfer (SET), on electronic media (CD, DVD or USB stick) or on paper. You must make your return in one of the formats specified in the return notice. HMRC will not return any electronic media you send them. Once the data has been upload to their systems they destroy and recycle all the items. HMRC no longer accept returns on floppy disks.

HMRC allow you to make returns on paper but since they are difficult to encrypt they are less convenient for those who only have a few clients to report on. For those who want to use it, HMRC have produced a spreadsheet, which you can get from the gov.uk website (see paragraph 3.5). Rather than using paper forms, HMRC would prefer you to use the spreadsheet to submit returns consisting of only a small number of clients. You should encrypt your completed spreadsheet. You can then submit it via SET or copy it to one of the types of media detailed above and post it to HMRC at the address in the notice. See section 8 for further details of the spreadsheet.

If you choose to make your OI return on paper, you must use the combined Savings Income Return and OI form. You must ring the HMRC Orderline on 0300 200 3610 and ask for the S18 OCR forms (or the S18(LA)OCR form if you are a local authority). The return must be on the forms they send you; HMRC **cannot accept photocopies or internet downloads**. The instructions on how to complete the form and a copy of the form, for example, to use in setting up your printers, are on the gov.uk website (see paragraph 3.5).

The information that you must report on your OI return has not changed greatly from tax year 2005/06. HMRC structured the paper returns and the spreadsheet so you could combine your OI and EUSD information onto the same return. The combined form includes some items just for the OI returns, some just for EUSD and some for both sorts of return. EUSD returns are no longer required from UK financial institutions, however the structure of the OI return will be left unchanged for both tax years 2106-17 and 2017-18. Thereafter the return will probably shrink to include just the OI information. This end date has been chosen to coincide with the end of reporting for Fully Reportable countries on the OI return.

The EUSD parts of the combined return should be completed in line with the rules in the Electronic Flat Text File Specification or the spreadsheet, depending on which reporting system you use. See the link in paragraph **Error! Reference source not found.** for the specification.

### 3.7 Data Protection Act

Schedule 23 FA 2011 requires you to provide the information specified in the notice HMRC send you. The Information Commissioner's Office (ICO) ruled that the old law (section 18 TMA 1970) was exempt from the non-disclosure provisions of the Data Protection Act 1998 by virtue of section 35(1) of that Act<sup>1</sup>. HMRC expect the ICO to view schedule 23 in the same way. This exemption, however, only applies to the information specified in the notice HMRC send you. To be certain of fulfilling your Data Protection Act responsibilities, only report information that they have specified in the notice (see paragraph 4.2).

The detail of section 35(1) means that you must protect the information in your return while it is in transit to HMRC. They have added a section at the end of this note that details the provisions they have made for you to send in an encrypted return (see section 8)

### 3.8 Appeals against data holder notices

Unless the Tribunal has approved the giving of the notice, when HMRC give you a notice to provide a OI return, you can appeal against that notice on any of the following grounds:

- it would be unduly onerous for you to comply with the notice or a requirement in it.
- you are not a relevant data-holder; or
- the data you have been required to provide are not relevant data.

The first bullet does not apply to a requirement to provide data that form part of your statutory records (the records the tax laws say you must keep).

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<sup>1</sup>< [http://webarchive.nationalarchives.gov.uk/20090105194503/http://www.ico.gov.uk/upload/documents/library/data\\_protection/practical\\_application/disclosures\\_of\\_personal\\_information/taxes\\_management.pdf](http://webarchive.nationalarchives.gov.uk/20090105194503/http://www.ico.gov.uk/upload/documents/library/data_protection/practical_application/disclosures_of_personal_information/taxes_management.pdf) >



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### 3.9 Penalties

If HMRC give you a notice to make a return, but you fail to do so by the due date, you will be liable to a penalty of £300. If you still do not make a return after they impose that penalty, they can impose a further penalty of up to £60 for each day that the return is not made.

If you still do not make the return, the law allows HMRC to apply to the First-tier Tribunal for an increased daily penalty of up to £1,000 per day.

To avoid a penalty of up to £3,000 for an incorrect return, take reasonable care when making your return and **do not make a deliberately incorrect return.**

### 4. What is reportable?

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#### 4.1 The information to include in your return

You must only report interest that you have:

- paid to; or,
- received on behalf of

reportable individuals (see paragraph 4.2), including partnerships containing such individuals (see paragraphs 5.6 and 5.7).

Previously, there was a concession under which some data-holders reported all the interest they paid or received for all their investors, irrespective of whether or not the investors were reportable individuals. This concession ended on 6 April 2005. Only report in your return the interest and investors you should report on. Do not report everything, even if you think it may be easier for you (see paragraph 3.7).

You must report payments on Sharia compatible accounts and other types of alternative financial arrangements in your return as if these amounts were interest (see paragraph 2.2).

If the payee or recipient is not an individual, or not reportable, do not include their interest in your return. For example, if you pay interest to a nominee company that is acting for an individual, do not include it in your return. Similarly, do not report payments by AIFs to a reputable intermediary.

**But;**

where ...	... see paragraph ...
interest is paid by AIFs in circumstances where they hold a NOR Declaration (form R105);	4.9
an individual has directed you to pay their interest to a third party;	5.1
you hold an R85 form for the recipient of the interest;	5.3

Some examples of who should make the report are in the Custodian flowcharts on the gov.uk website (see paragraph 3.5).

#### 4.2 Reportable individuals

A reportable individual is one for whom you have a residential address in the UK or in a 'Fully Reportable' (FR) country. If you only have one address for an individual then use that to decide whether they are reportable. The list of FR countries for the period between 2015 and 2017 is in paragraph 2.6 above and on the gov.uk website (see paragraph 3.5).

**HMRC give 6 months notice of any change to the list of FR countries.**

#### 4.3 How to decide who are individuals

Some financial institutions do not have to undertake Know Your Customer checks. To make reporting simpler for these, if your books name the account holder or recipient of the interest as an "entity" rather than an individual you do not have to report their interest. For example,

if your books show ...	... then ...
"G&G Investment Club"	no report is required, as this does not appear to be an individual. You are not expected to look through your records to find out if this is, in fact, an individual or individuals.
"Green and Griffin"	a report is required, as this appears to be 2 individuals (see paragraphs 5.6 and 5.7).
"Green (Treasurer)"	a report is required, as this appears to be an individual.

Those financial institutions who do have to make Know Your Customer checks, will know exactly who their customers are and so will know whether they are individuals or not.

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### 4.4 What interest must you include on your return?

You must include all interest paid to, or received by, reportable individuals except that shown in paragraph 4.5. Include in your return:

- interest on all investments paid or received, in the UK, other than passively (see 4.5 first bullet), to or for any reportable individual;
- foreign interest, i.e. interest received from a non-UK source;
- Quoted Eurobond interest (The definition of a quoted Eurobond is that it is issued by a company, carries a right to interest and is listed on a recognised Stock Exchange);
- Building Society PIBS (but see paragraph 3.1);
- UK Gilt interest (but not accrued interest that is reflected in the sale/purchase price);
- interest distributions by UK AIFs, even if they are not paid as interest but are used to acquire more units or increase the value of existing units; and,
- interest paid on bearer instruments.

### 4.5 What interest should not be included on the return?

Do not include interest:

- only collected passively (for example, where a bank does no more than clear a cheque for foreign interest, or arranges for such a cheque to be cleared, having taken no steps to secure payment of those monies);
- that is not easy to identify as interest. For example, do not report where you:
  - actively collect a payment but it may or may not be interest; or
  - receive a **mixture** of credits, some of which are, or may be, interest but you cannot ascertain the amount of any interest without further enquiry.
- on ISAs (but see paragraph 4.6);
- paid to, or received on behalf of, the Trustees of a pension scheme, including any SIPP or SSAS that has been registered by HMRC (see paragraph 4.7);
- payable to registered pension schemes including Individual Pension Accounts (see paragraph 4.7);
- paid by you on cash deposits at your branches outside the UK **unless**:
  - that interest is remitted to the UK;
  - you receive it (other than passively); and,
  - you are acting for a reportable individual (see also paragraph 5.1 regarding interest directed elsewhere);
- paid on investments, other than cash deposits held at your branches outside the UK, unless paid, or received (other than passively), by you in the UK for a reportable individual;
- that has accrued but which has not yet been paid or credited (see paragraph 4.10.7);
- on SAYE/Share Save Schemes
- on National Savings & Investments Certificates and Childrens Bonds. If, however, you receive interest on behalf of others and cannot distinguish this type of interest it can be reported;
- on Child Trust Funds or Junior ISA (JISA) accounts;
- that is redemption proceeds of deeply discounted securities; (These were called 'relevant discounted securities' under FA 1996 but are called 'deeply' under section 430 of ITTOIA 2005; the product is the same.)
- that is foreign dividends (not including foreign interest), as defined in paragraph 12(3) of Schedule 23 to FA 2011 except where the distribution is taxed as interest (such as under s378A of ITTOIA 2005). Where you cannot immediately identify if the payment or receipt is interest, then the distribution is not reportable, under the terms of the second bullet above;
- that is repo interest; or
- that are manufactured payments.

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### 4.6 Invalid ISAs

You should report interest paid or credited to:

- an invalid ISA; or,
- a repaired ISA, up to the date of repair.

If the ISA is repaired, or the ISA is found to be invalid, before you send in your return, show the correct position on the return. If you have already sent in the return, do not send a further return but keep details for production at the audit.

### 4.7 Registered Pension Schemes (formerly Approved Pension Schemes)

HMRC used to 'approve' pension schemes that met certain criteria and issue them with an approval letter. Where this letter was provided to an interest payer, that payer did not have to report the pension scheme's interest on their section 18 return as the OI returns were called then. This system changed on 6 April 2006. HMRC now 'register' pension schemes, not 'approve' them. Almost all schemes that were approved up to the change date transferred directly to the register on that date. Where a pension scheme opens an account after April 2006 it must download details of its registration and give these to the interest payer. Interest payers can rely on previously lodged approval letters as proof of registration for existing accounts / schemes unless they have evidence that the scheme is not registered.

### 4.8 How must I organise the information on the return?

Your return must give the information below either for:

- each transaction; or
- the aggregate of the transactions for a particular account or security for a particular individual over the whole tax year.

For example, if a security has paid interest four times in a year to an individual, you may either report the four transactions or a single total figure. Please report consistently over your whole return.

Always include in your return:

- the name(s) and address(es) of the individual(s) to whom the interest has been paid or on whose behalf it has been received. Formerly there were different requirements:
  - where you held an R85 form (see paragraph 5.3)
  - where an AIF paid the interest gross because they had an NOR declaration (R105 form) (see paragraph 4.9)
- the amount of interest paid or received before deduction of any tax. If you deduct an overseas withholding tax, you may report either the gross amount before deduction or the amount after that deduction. Please report consistently across your return;
- the UK tax deducted (if any);
- an indicator to identify a joint account or holding and, if known, the number of parties to the account or holding;
- an identification reference number for the account or security. For example, the ISIN, SEDOL or CUSIP number. Where the security does not have a unique reference number you must use the 'universal dummy' – QQ999999 – in your return. You may only use this dummy where there is no number available on a recognised numbering system. The auditor will check when you use the dummy. Where you report an account number, you must also report the branch if it is necessary to identify the account completely;
- an indicator where interest is paid and reported in a currency other than sterling, together with the SWIFT standard code for that foreign currency.

### 4.9 R105 cases: savers who are Not Ordinarily Resident in the UK (NOR)

New guidance

This form is part of the TDSI system which is stopping in April 2016. If your systems are set up to record and report use of the forms then you can continue to report these forms on your BBSI return so long as you use all the old guidance in this paragraph. You do not have to

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continue to report use of these forms if you do not want to. You can just make the appropriate blank report in these places on your return as laid down by the Electronic Flat Text File Specification. (see link in paragraph **Error! Reference source not found.**)

### Old Guidance

The R105 form comes in several variants including four versions each of R105(AUT) and R105(OEIC). This paragraph covers all of them but, for ease of reading, we just refer to R105.

R105s are declarations by individual savers (including unit-holders or shareholders) that they are Not Ordinarily Resident in the UK (NOR). These declarations are given to interest payers and provide them with the authority to pay interest without deducting tax. The name(s) and principal residential address(es) of the "individual(s) beneficially entitled to the interest" must be given on the R105 form.

Changes in the 2003 Finance Act to the arrangements for paying interest distributions to overseas investors mean you are only likely to require NOR declarations in a few circumstances. The commonest of these will be for direct payments to an individual unit-holder or shareholder. You can now pay interest distributions gross to overseas investors where the unit holder is a company or unit trust scheme and the so-called "reputable intermediary" condition is satisfied. For further details, please refer to the separate guidance notes at:

<http://webarchive.nationalarchives.gov.uk/20140109143644/http://www.hmrc.gov.uk/specialist/auth-unit-trust-guide.pdf>

Where you have an R105 for an individual, you must include in your return:

- the name(s) of any individual(s) beneficially entitled to the interest (instead of the payee);
- their principal residential address(es) (see below); and
- an indicator to show that you have paid the interest gross because you hold an R105 form.

The principal residential address must be one of the following:

- the address shown on the R105 form. You can report this address for as long as the form remains valid. There is no need to report either of the alternatives shown below;
- for the second or subsequent year in which gross payment is supported by an R105, a more up-to-date address you know is the new principal residential address; or
- for the fourth or subsequent year in which gross payment is supported by an R105, the correspondence address held on your system. Where you hold more than one correspondence address, you should report the address you use for normal investment correspondence.

The obligation on the trustees of AIFs is limited to checking that they report an address that meets one of these three conditions.

If an investor completes an R105 declaration part way through the year so that they receive some interest under deduction of tax and some gross you should, strictly, make two reports. One of the interest paid with deduction of tax, giving details of the payee. The other of the interest paid without tax deducted, giving details of the individual beneficially entitled to the interest. You may, however, make a single report for the year, giving details of the individual beneficially entitled, together the whole amount of interest paid for the whole year and all the tax deducted from part of that interest.

### 4.10 How to deal with different types of addresses

**You must be able to show the auditor** (see section 6) **why you included, or excluded, any payment of interest from your return.** Keep details of the reasons why you decide to include or exclude any information and of all the checks you make.

**'Reportable addresses' that are those that are in the UK or an FR country.**

#### 4.10.1 Customers with more than one address

The investor's address you should report is their residential address. Where your system only holds a correspondence address, and it is not possible to report the residential address, only

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then can you report the correspondence address. The auditors will investigate where you report an address other than the residential address.

If you hold an R105 form, you must report the permanent residential address (see paragraph 4.9). This may mean that you do not need to report some interest. For example, if you hold a correspondence address in Norway (an FR country) for a Russian investor, you do not need to report the interest if you also hold his residential address in Russia, which is not an FR country.

### 4.10.2 Changes of address

Generally, an individual's address on 5 April decides whether you need to include them in your return for that year. Include only those individuals who have a reportable address at that date (but see paragraphs 4.10.3 and 5.9). Other dates will be acceptable if, say, your system is set up so that the decision on whether to report is made at the time the interest is paid or received.

### 4.10.3 Accounts closed during the year

You must report the interest paid/received during the year if the individual had a reportable address on the date that the account was closed. If you hold a later address on your system, it can be used as the basis for reporting (or non-reporting if the later address is not in the UK or an FR country).

### 4.10.4 PO Box addresses

You can report a PO Box address as a correspondence or payee address but, in R105 cases, you must report the principal residential address of the individual beneficially entitled to the interest. Where you hold an R105 from your customer, you can report a PO Box address as the principal residential address only if that is an acceptable residential address for the country in question, or for that part of the country, and allows the investor to be traced. You must check whether a PO Box address is the norm for that particular country. Confirmation from the investor is acceptable unless you have information to the contrary, for example, from your dealings with other customers in that country.

### 4.10.5 BFPO and C/o addresses

A BFPO or C/o address must be queried in all cases where it is reported as the principal residential address. You must get confirmation from the investor that the BFPO or C/o address is their principal residential address. BFPO addresses normally cover large areas such as a whole town, city or country rather than one residential address and so cannot be used.

### 4.10.6 "Hold Mail" addresses

Where you have a continuing relationship with a payee from before 5 April 2001, you can report a "Hold-Mail" address held on your system (even if another address is held in a file or paper record). For example, if the address you have is "Hold mail c/o XYZ Bank, Sheffield branch", you must report this. You only need report addresses in the UK and FR countries. For example, you need not report, "Hold mail c/o XYZ Bank, Dubai branch".

For relationships that began on or after 6 April 2001, "Hold-mail" is not acceptable and you must report a full address. This will typically be the residential address to which you would send correspondence if there were no "hold mail" instruction.

### 4.10.7 Whereabouts unknown

Report interest paid before the payee went "whereabouts unknown", based on their last known address. Do not report interest you cannot pay for the time being because the investor's whereabouts are unknown. When you discover the investor's new address and pay the outstanding interest, report the whole payment for the year in which you actually make it and for the new address.

If your system reports by the date when the interest is payable, HMRC will allow you to report the interest as if it had been paid (using the last known address). HMRC conditions for this are that it happens in only a small number of cases and suppressing the report, and instead reporting in the tax year the payment was actually made, would be disproportionately expensive. You need not ask to do this but keep details for the auditor.

## 4.11 **Dormant accounts transferred to a Reclaim Fund<sup>2</sup>**

This is really just a further case of "whereabouts unknown" (see paragraph 4.10.7). Money in accounts still dormant after 15 years can be transferred to a Reclaim Fund or equivalent charity

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<sup>2</sup> "Reclaim fund" has the meaning given by section 5(1) of the Dormant Bank and Building Society Accounts Act 2008.

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scheme. The amount is transferred with all interest outstanding at that time, added in. You must not report this interest when you transfer funds to the Reclaim Fund. You must report all the interest the account has accrued if you later identify the owner and get the money back from the Reclaim Fund. In the tax year that the owner of the account is found, report all the interest that you had not reported while they were missing.

### 5. Particular cases

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#### 5.1 Interest directed elsewhere

Interest is treated as received by person A if it is received by person B, as a nominee for A, at the direction, or with the consent, of person A. For example, where interest on investments held by a nominee is mandated directly to an individual investor's bank account, the nominee must report that interest.

#### 5.2 Interest paid/received on cash awaiting investment

The return requires an entry for 'Security Details'. Where interest is paid or received on cash, enter 'CASH' in the Security Details box.

#### 5.3 Cases where R85 form is held by a local authority

Some local authorities hold R85 forms relating to accounts that have been registered to receive interest without tax taken off. The OI return system is not set up for the additional information HMRC need in such cases. Local authorities in these cases should report using the BBSI format and guidance notes instead of these notes (see paragraph 3.1 second bullet).

Where you are a local authority making such a BBSI return, and you hold an R85 for the account, include in your return the following additional information:

- the date of birth and National Insurance Number (NINo) if these are provided in connection with the account; and,
- an indicator to show when a payment made was the first ever interest payment made to the account.

#### 5.4 Pooled assets

Where interest is paid to, or received on behalf of, an identifiable reportable individual by way of a pooled account, the interest is reportable on your OI return. If the interest cannot be tied to a particular individual on receipt into the pool account, it is not reportable on receipt. It will be reportable where it is subsequently paid to the reportable individual and HMRC require the pool account operator to make an OI return.

#### 5.5 Foreign currency accounts

Where interest is paid in a foreign currency, you may report either:

- **that amount of foreign currency** – the report must include an indicator to show that it is a foreign currency and the SWIFT code for that currency (see the gov.uk website (see paragraph 3.5) for the list of SWIFT codes); or,
- **the equivalent in sterling** – the foreign currency should be converted to sterling at the rate at which the tax, if any, was converted for payment to HMRC. Otherwise, you may use a rate in force at the date the interest was paid or received, for example, a period end rate.

#### 5.6 Partnerships and other joint holdings

You must report interest paid to any partnership or joint holding where any of the partners or joint holders is a reportable individual.

Where only one or two of the partners or joint holders are reportable individuals, report:

- the 'client name' as being the name of the account or holding title;
- the name(s) of the reportable partner(s) as 'participants'; and
- the **total** number of partners or joint holders, including those who are not reportable individuals, as the 'number of participants'

If there are more than two reportable individuals in the partnership or joint holding, you may limit your report to just:

- the 'client name' as being the name of the account or holding title;
- the first two named reportable individuals to the account or holding as 'participants'; and
- the **total** number of partners or joint holders, including those who are not reportable individuals, as the 'number of participants'.



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If two or more of the partners or joint holders are reportable individuals with the same address you can combine their entries in one report.

### 5.7 Professional partnerships

For professional partnerships, for example, law, accountancy or architecture firms, only report the partnership name and address. For these purposes, a 'professional' partnership is one that is regulated by an independent body (or would be regulated if it were established in the UK).

### 5.8 Trusts and reporting by trustees

If the trustee has completed an R105 form (see paragraph 4.9), you should report details of the individual beneficially entitled to the interest.

You should report any interest paid to an agent for the trustees if the agent is a reportable individual or a partnership (see paragraphs 5.6 and 5.7).

There may be a change of beneficiary or trust type during the course of the year, for example, where a life tenant dies. In other cases, the right to the interest may pass to a new beneficiary under the terms of the trust. In all these types of cases, you should report on the basis of who was the beneficiary at the time interest was paid. This may mean you have to make two or more reports for the year, one for each beneficiary or type of trust.

#### 5.8.1 Interest to trustees of Discretionary or Accumulation & Maintenance Trusts

If you pay interest to, or receive interest on behalf of, the trustee of a Discretionary or Accumulation and Maintenance Trust you should make a return in the name of the trustee(s) where they are reportable individuals. If there is more than one Trustee, apply the partnership rules (see paragraphs 5.6 and 5.7).

#### 5.8.2 Interest to trustees of Bare, Interest in Possession or Life Interest Trusts

A Bare trust is a trust where the beneficiary has absolute entitlement to the investments of the trust and any income arising from them. An Interest in Possession trust is where the beneficiary has the immediate entitlement to any income. A Life Interest trust is where the beneficiary (known as a 'life tenant') is entitled to the trust income for a period of time, usually until death but it can be for some other period.

If you pay interest to, or receive interest on behalf of, the trustees of these types of trusts, you should include in your return the name of the beneficiary where they are a reportable individual. If you do not know the name of the beneficiary, you should include the name of the trustee, if the trustee is a reportable individual.

#### 5.8.3 Distributions by trustees to beneficiaries of trusts

There is no requirement for trustees of Discretionary or Accumulation and Maintenance Trusts to report interest they have received on their OI return. They are deemed to have received it on behalf of the trust and the beneficiaries do not have an automatic entitlement to it. Distributions made by these trustees to their beneficiaries are not 'interest' and so are not reportable, even if one or more of the beneficiaries has become entitled to their share of the trust income under the terms of the trust and is a reportable individual.

Trustees of Bare, Interest in Possession or Life Interest Trusts may receive a notice to make an OI return where their beneficiary is a reportable individual. This is because the beneficiary is entitled to the income of the trust in the form in which it arises.

### 5.9 Deceased Investors

You must report interest paid to, or received on behalf of, deceased reportable individuals up to their date of death, in their name and at their last known address.

Interest paid to, or received on behalf of, executors is reportable if one or more of the executors are a reportable individual. This applies to the whole period of their executorship. Apply the rules for reporting partnerships (paragraphs 5.6 and 5.7) where there is more than one executor.

Executors need only make an OI return where they receive a notice to do so. They need only report assets giving rise to the payment or receipt of interest that have been assigned to a reportable individual beneficiary.

Executors need only report interest paid or received from the date the assets were assigned. In addition, you may follow the second subparagraph of paragraph 3.1, on double reporting, where it applies to your circumstances.

### 6. Audit and retention of records

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#### 6.1 Systems and controls

From time to time, HMRC audits returns to check both the accuracy and completeness of the information you put on your OI return. The HMRC auditor will conduct a walk-through of your systems and controls for identifying, capturing and reporting payments and clients.

#### 6.2 Accuracy of returns

The auditor will extract a statistically valid sample (using 68% confidence levels) from the return to test that the information reported is accurate. They will compare the sample with information held on your system, client files and account statements to check that the amounts of income and personal details are accurate.

#### 6.3 Completeness

To test that the return is complete, the auditor will check sample cases against the return to ensure you have correctly identified:

- reportable and non-reportable payments;
- reportable and non-reportable persons; and,
- reportable and non-reportable addresses,

and correctly included, or excluded, them as appropriate.

#### 6.4 Independent audit of excluded accounts

By arrangement, HMRC will allow you to appoint an independent auditor, at your expense, to review the product types, client types and addresses you have excluded from your return. They will select statistically valid samples from your excluded accounts (using 68% confidence levels) and check that those customers have been properly excluded from your return. This avoids HMRC staff looking through accounts in which there is generally no UK tax interest.

The independent auditor's report will be an integral part of the HMRC audit. The auditor must be registered under the Companies Act 1989 and experienced in carrying out audits of the business of an institution such as yours.

If you wish to arrange this, contact HMRC through the link in paragraph 3.5 with details of the auditor you are proposing. You may apply at any time. HMRC will acknowledge requests within 30 days of receipt.

The results of the independent auditor's review must be sent to HMRCs auditor within 21 days of the completion of the work. The HMRC auditor will be able to tell you where to send the results. They will form part of HMRCs audit report, which is normally issued within 28 days of the completion of the HMRC audit.

#### 6.5 Results of audits

If you cannot explain to HMRCs satisfaction any material difference between the results of the audits, they may request that the independent auditor do further work or carry out the work themselves. Where errors are discovered, HMRC may ask you to undertake further work to identify the source of the problems and put them right.

#### 6.6 Retention of records

You must retain the records you use to make up your return for two years after the end of the period of the return. Thus, you must retain all records for the 2016/17 return until 06/04/2019.

### 7. European Union Savings Directive (EUSD)

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#### 7.1 Repeal of Directive

The European Union Savings Directive (EUSD) was brought into effect in the UK by the Reporting of Savings Income Information Regulations 2003 (SI 2003/3297). The EUSD reporting requirements ended with the next end of the tax year after 1/11/15. For UK financial institutions this meant the last return period was for UK tax year ending 5/4/15. The data reported under the EUSD, interest paid to investors resident in other parts of the EU, will be included, from 1/1/2016, in the CRS system for reporting foreign resident investors with UK accounts.

Although the EUSD reporting boxes will remain on the return, no EUSD information should be put in these for the 2016/17 tax year; or for any return thereafter.

### 8. Data Protection and security of returns

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#### 8.1 Your responsibilities under the Data Protection Act 1998 (DPA)

HMRC do not set any particular security standards for data coming to them from businesses. They are happy to work with anyone who needs to send them data to help them secure it while it moves. Under the DPA, you are responsible for the security of personal data until HMRC have received it. HMRC currently secure outgoing data to businesses in the following ways and they encourage everyone to be this careful when transferring information.

#### 8.2 What encryption do HMRC use?

HMRC encrypt data to 256-bit standard with a 20 character complex password onto computer media (normally CD/DVD). A secure courier transports the media in secure and tamper evident packaging. A named individual signs for it when received. HMRC send the password separately.

#### 8.3 What is the latest published security advice for my return?

HMRC update their advice from time to time and publish it on the gov.uk website. The security advice for your OI return is the same as for returns of a number of other schemes. It is in the Returns Bulletin part of the website (see paragraph 3.5):

#### 8.4 What if I want to use the spreadsheet?

Some people used to make paper returns because it was easier than using the electronic flat text file specification to create a computer file for just a handful of clients. As an alternative, given the widespread use of spreadsheets, HMRC have produced a spreadsheet that you can type your return data into. Rather than using paper forms, which are difficult to encrypt, HMRC would prefer you to use the spreadsheet to submit returns of only a small number of clients. You can download it from the gov.uk website (see link in paragraph 3.5).

The spreadsheet contains two worksheets. One has guidance on it to help you complete and send in your return. The other (the data worksheet) is for you to enter your data on. Complete instructions on how to use it are in the spreadsheet and on the website. There is no need to ask permission to use it. It is in Excel format from Microsoft Office version 2003 onwards.

There is no limit to the number of records that you can put on one spreadsheet but please only put your data on one worksheet. Do not delete either worksheet from the template or add any more worksheets.

You can submit completed spreadsheets via SET (HMRCs preferred method) or on one of the approved media formats detailed in paragraph 3.6 above or the specifications on the gov.uk website. An advantage of the spreadsheet is that it can be encrypted in accordance with the advice in the returns bulletin (see paragraph 3.5) and then posted to HMRC at the address shown in their OI notice to you. Follow the arrangements in the returns bulletin to send your encryption password to HMRC.

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**Appendix 1**

